

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No. 17450 of 2014(O&M)
Date of decision : 27.11.2015**

Bindia & Anr.

..... Petitioners

versus

State of Haryana & Anr.

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Present: Ms. Manjari Nehru, Advocate
for the petitioners.**

Mr. Amrik Narwal, DAG Haryana.

**Mr. A.P.S. Doel, Senior Advocate with
Mr. V.R. Lamba, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioners along with others have been arraigned as accused in FIR No. 180 dated 21.06.2013, registered under Sections 148, 149, 323 and 506 IPC, Police Station Naraingarh, District Ambala. They are seeking quashing of the FIR in the petition filed under Section 482 Cr.P.C.

It is apposite to mention here that challan against the petitioners and others had been filed and they were charged under Sections 148, 149, 323, 325 and 506 IPC.

The impugned FIR has been registered at the instance of respondent No. 2 Rishi Walia containing the allegations that his

family was having strained relations with elder brothers of his father, namely Rajinder and Surender and their families on the property situated in village Milak. On 20.06.2013 he along with his father Ram Singh were in village Milak, then Rajinder, Surender and their family members namelyf Naresh, Garima, Subhash, Anil, Monu Walia and Bindiya came armed with lathis, iron rods and gandasis and started inflicting injuries to him and his father Ram Singh. On hearing the noise, the villagers came to their rescue. The accused fled from the spot and extended threats while leaving.

The injured were shifted to the hospital for treatment. The matter was reported. The case was registered and investigated. Final report was submitted and charge was framed.

Quashing has been sought on the ground that vague allegations had been levelled in the FIR against the petitioners and no specific injury had been attributed to them. Petitioner No.1 is having partial disable in the left hand and she could not be in a position to lift the iron rod and cause injury and the parties were having strained relations and they had been implicated just to widen the set and settle scores.

Upon notice, State has filed the reply. It was averred that specific allegations were levelled against the petitioners and after investigation challan was filed and the petitioners had been charged under Sections 148, 149, 323, 325, 506 and 201 IPC and the petition is not maintainable.

I have heard learned counsel for the parties and have perused the paper-book.

Broad guidelines have been framed by the Hon'ble Apex Court for exercise of powers under Section 482 Cr.P.C. in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, AIR 1992 SC 604, which read as under:-

“105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. Do not disclose a cognizable offence, justifying an

investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In Zandu Pharmaceutical Works Ltd. v. Mohd.

Sharaful Haque, AIR 2005 SC 9, the Hon’ble Supreme Court

referred to many judgments on the point and observed as

follows:

“The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. It if

appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that even there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings.”

Similar view point has been reiterated by the Hon’ble Apex Court in **State of Madhya Pradesh v. Awadh Kishore Gupta , (2004) 1 SCC 691.**

Adverting to the facts of the present case. In the instant case, the petitioners are seeking quashing of the FIR on the ground that no specific injury had been attributed to them and their participation in the crime is doubtful as petitioner No.1 was suffering from partial disability of the left hand and it was not possible for her to carry the iron rod and cause injury. The other ground raised is that the medical evidence is in conflict with the version given in the FIR, the petitioners have been falsely implicated due to strained relations and the complainant side was the aggressor. A perusal of FIR reveals that the petitioners had specifically been named therein as a member of unlawful assembly and of causing hurt to complainant and his father. The

parties are known to each other and it cannot be said to be a case of mistaken identity. There are questions of facts and it is a matter of trial. No finding can be recorded at this stage. It is necessary that there should be meticulous analysis of the case and the trial Court has to find out whether the case would end in conviction or acquittal. In the considered opinion of this Court, the case of the petitioners does not fall in any of the clauses reproduced above. It has been laid down in catena of judgments that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases, which is not the case here.

Therefore, in view of the discussion made above, the petition is dismissed. However, whatever has been said hereinabove is without any prejudice to the case of the petitioners that may be set up by them.

November 27, 2015
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(ANITA CHAUDHRY)
JUDGE